

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Christina A. Beckert,

Plaintiff,

Case No. 2:19-cv-2226

v.

Judge Michael H. Watson

Commissioner of Social Security,

Magistrate Judge Vascura

Defendant.

OPINION AND ORDER

On February 3, 2020, Magistrate Judge Vascura issued a Report and Recommendation (“R&R”) recommending the Court overrule Plaintiff’s Statement of Specific Errors and affirm the Commissioner of Social Security’s decision denying Plaintiff disability benefits. R&R, ECF No. 16. Plaintiff objects. Obj., ECF No. 17.

When a party objects to an R&R within the allotted time, the Court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); see also Fed. R. Civ. P. 72(b). Upon review, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1).

Plaintiff’s sole objection is that the ALJ failed to properly apply the treating physician rule. Obj. 2–5, ECF No. 17. Plaintiff asserts the ALJ neither properly applied the controlling weight test nor provided good reasons for the weight she

gave to Dr. Gilman, one of Plaintiff's treating psychiatrists. Plaintiff contends the ALJ should have given Dr. Gilman's opinion controlling weight because it was both supported by medically acceptable clinical and laboratory diagnostic techniques and, contrary to the ALJ's finding, was *not* inconsistent with other substantial evidence in the record. *Id.* at 3. Specifically, Plaintiff argues that the evidence the ALJ cited as inconsistent with Dr. Gilman's opinion was not, in fact, inconsistent with that opinion. *Id.*

The Court has reviewed *de novo* the R&R, Plaintiff's objection thereto, and the record and agrees with the recommendation of the R&R. Although there is record evidence consistent with Dr. Gilman's opinion, there is also record evidence inconsistent with that opinion, and substantial evidence—including the state agency reviewer's opinions and Dr. Gilman's own treatment notes—supports the ALJ's decision not to give Dr. Gilman's opinion controlling weight.

The Court **OVERRULES** Plaintiff's objection, **ADOPTS** the R&R, and **AFFIRMS** the Commissioner's decision. The Clerk shall enter final judgment for Defendant and terminate this case.

IT IS SO ORDERED.

/s/ Michael H. Watson
MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT